

## **DISCLAIMER**

*This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).*

## **APPLICATION OF**

**VIRGINIA ELECTRIC AND  
POWER COMPANY**

**CASE NO. PUE000741**

**For a certificate of public convenience  
and necessity under the Utility Facilities  
Act to develop, construct, own and operate  
an intrastate natural gas pipeline**

## **REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER**

**June 8, 2001**

## **HISTORY OF THE CASE**

On December 15, 2000, Virginia Electric and Power Company ("Virginia Power") filed an Application with the Commission for a certificate of public convenience and necessity to develop, construct, own, and operate a 14-mile lateral natural gas pipeline and related facilities for the receipt and delivery of natural gas needed as fuel for new natural gas-fired generation facilities and other existing facilities at Virginia Power's Possum Point Power Station (the "Station") in Prince William County, Virginia.

The proposed pipeline will interconnect with the Williams Companies' Cove Point pipeline in Fairfax County, Virginia, at a point within Virginia Power's existing electric transmission line right-of-way and proceeds in a southerly direction paralleling Virginia Power's electric line. The route crosses County Road 647 (Hampton Road) and passes through the Sandy Run Regional Park before crossing the Occoquan Reservoir. At the Occoquan Reservoir, the route leaves Fairfax County and enters Prince William County, Virginia. The pipeline route crosses to the west side of the Virginia Power electric line right-of-way through the Lake Ridge subdivision. Within the Lake Ridge subdivision, the pipeline route crosses Deepford Drive, Woodfern Court, Old Bridge Road, and Oakwood Drive. Continuing in a southerly direction, the pipeline crosses Omisol Road, Maple Ridge Drive, and County Route 640 (Minnieville Road). Shortly after crossing County Route 640 just east of Bethel, the route leaves the electric line right-of-way, just west of I-95. The route crosses I-95 and continues in a southerly direction continuing to parallel the Virginia Power electric line right-of-way across Princess Anne Lane, past the east side of Potomac Hospital, and across Optiz Boulevard. Still proceeding in a southerly direction and continuing to parallel Virginia Power's electric line right-of-way, the route crosses Dale Boulevard, US Route 1 (Jefferson Davis Highway), County Route 638 (Blackburn Road), County Route 610 (Neabsco Road), Jennings Street, and County Route 635 (Cherry Hill Road). Approximately 5,000 feet south of the County Route 635 crossing, the route enters Virginia Power property. There the route crosses County Route 783 (Cockpit Point Road), and the Fredericksburg and Potomac Railroad, before ending at a measuring and regulating station to be located at the Station. (Ex. DB-18, at 2-3).

The 4,500-foot section of the route south of County Route 640, where the pipeline route leaves the existing transmission right-of-way, travels through undeveloped land that is either woods or old farm fields. In this section, the route will cross County Route 639 (Horner Road), Telegraph Road, parallel a section of County Route 639 that has been abandoned, and cross County Route 3000 (Prince William Parkway) before entering another Virginia Power electric line right-of-way, on the western side of I-95. (Ex. DB-18, at 3).

Approximately 94.5% of the pipeline will be located in Virginia Power's electric transmission right-of-way or on Virginia Power property. The pipeline is designed to be 20 inches in diameter with a maximum allowable operating pressure of 1250 psig. The pipeline will require a 75-foot right-of-way, of which 50 feet will be permanent right-of-way and 25 feet will be temporary construction right-of-way. Construction is scheduled to begin in April 2002, and Virginia Power estimated that it would be completed by October 2002. Virginia Power proposed to finance the project through internally generated cash. (Exs. DB-4 and DB-18).

Virginia Power used Virginia Power Energy Marketing, Inc. ("VPEM"), an affiliate, to assist in obtaining gas supplies for the Station and to construct the pipeline. VPEM selected Dominion Transmission, Inc. ("DTI") to construct and operate the pipeline. In accordance with its functional separation plan, if Virginia Power transferred the Station to Dominion Generation, the pipeline also would be transferred to Dominion Generation.

On January 25, 2001, the Commission entered an Order for Notice and Hearing in this case. The order appointed a hearing examiner to hear the case, scheduled a hearing for the purpose of receiving evidence relevant to the Application, established a procedural schedule for the filing of testimony and evidence, and directed Virginia Power to provide public notice of its Application.

On February 28, 2001, Delegate Michele B. McQuigg, representing the Fifty-First District in the Virginia House of Delegates, filed a letter requesting a local hearing in Prince William County on the company's Application.

By Hearing Examiner's Ruling entered on March 2, 2001, two local hearings were scheduled on April 9, 2001, for the sole purpose of receiving public comment on the Application. The original hearing date of April 26, 2001, was retained for the evidentiary hearing.

By letter filed with the Commission on March 13, 2001, Sean T. Connaughton, Chairman of the Prince William Board of County Supervisors (the "Board"), requested an extension of the comment period beyond the established March 23, 2001, filing date. The Board also requested a local hearing. The Board's request for an extension was granted. By Hearing Examiner's ruling entered on March 16, 2001, the filing date for written comments was extended to April 6, 2001.

The local public hearings were convened as scheduled on April 9, 2001. A total of 26 public witnesses testified at the two hearings, including Delegate McQuigg, and Ruth T. Griggs and Hilda Barg, members of the Prince William Board of County Supervisors .

On April 17, 2001, the Staff of the State Corporation Commission (the "Staff") filed a Motion to Continue the Public Hearing and Permit the Parties and Staff to File Supplemental

Testimony. In support of its motion, the Staff argued that Virginia Power had yet to file complete information regarding a number of issues related to its Application. The Staff further argued that at the two local public hearings held on April 9, 2001, citizens raised legitimate concerns about the proximity of the pipeline to residences, schools, and recreational areas that merit additional development through additional discovery and testimony on these issues. The Staff requested that the scheduled April 26, 2001, hearing be convened for the purpose of receiving the testimony of any public witnesses, then continued, and a prehearing conference held to reschedule the evidentiary portion of the hearing. Neither the Protestants nor Virginia Power opposed the Staff's request for continuance.

By Hearing Examiner's Ruling entered on April 20, 2001, the evidentiary portion of the April 26, 2001, hearing was continued until a further date to be agreed on by the parties. The April 26, 2001, hearing date was retained for the purpose of receiving any additional public comment on Virginia Power's Application. A prehearing conference was scheduled to convene after the hearing to identify the critical issues in the case and to reschedule the evidentiary hearing.

The April 26, 2001, hearing was convened as scheduled. One public witness testified at the hearing. The evidentiary hearing was rescheduled for June 6, 2001.

The evidentiary hearing was convened as scheduled on June 6, 2001. Stephen H. Watts, II, Esquire and M. Renae Carter, Esquire, appeared on behalf of Virginia Electric and Power Company. James S. Copenhaver, Esquire, appeared on behalf of Columbia Gas of Virginia, Inc. Eric M. Page, Esquire, appeared on behalf of Columbia Gas Transmission Corporation. Michael J. Quinan, Esquire, appeared on behalf of the Lake Ridge Parks and Recreation Association. Edward L. Petrini, Esquire, appeared on behalf of the Virginia Committee for Fair Utility Rates. Donald R. Hayes, Esquire, appeared on behalf of Washington Gas Light Corporation. No public witnesses testified at the hearing. The parties tendered, for consideration by the Commission, a Stipulation that resolves all the outstanding issues in this case. The parties further stipulated the Application, the testimony and exhibits, the Kiefner & Associates Final Report, and the Proof of Notice into the record. A copy of the transcript is included with this Report.

## **SUMMARY OF THE EVIDENCE**

### **Protestants.**

Notices of Protest and Protests were filed by Columbia Gas of Virginia, Inc.; Columbia Gas Transmission Corporation; Lake Ridge Parks and Recreation Association, Inc.; Roanoke Gas Company; Virginia Committee for Fair Utility Rates; and Washington Gas Light Company.

Columbia Gas of Virginia ("CGV") does not oppose Virginia Power's Application. However, CGV is concerned that the Application requests certification pursuant to "the Virginia Utility Facilities Act, Chapter 10.1 of Title 56 of the Code of Virginia," which could be construed to permit Virginia Power (or a successor in interest to its proposed pipeline) to provide natural gas distribution service to customers within the service territory of Washington Gas Light Company, the certificated local distribution company serving the area. CGV recommends that the Commission

specifically state that the Application is granted pursuant to the provisions of § 56-265.2 of the Code of Virginia, not pursuant to the provisions of §§ 56-265.3 (assignment of service territories) or 56-265.4 (certificate to operate in the territory of another certificate holder) of the Code of Virginia.

Columbia Gas Transmission Corporation's ("TCO") stated interest in this proceeding is to ensure that TCO is provided non-discriminatory treatment by Virginia Power. TCO wants assurance that the access afforded to and construction, engineering, safety and operational standards required of DTI, Virginia Power's affiliated interstate natural gas pipeline company and a TCO competitor, will be comparable to standards in future projects requiring natural gas pipeline construction in Virginia Power rights-of way.

The Lake Ridge Parks and Recreation Association, Inc. ("LRPRA") is a homeowners association representing the Lake Ridge Community in Prince William County. LRPRA owns approximately 2.12 miles of right-of-way in the proposed route of the pipeline. LRPRA believes the homeowners who border the right-of-way will be unduly and unnecessarily affected by the pipeline if it is sited or constructed in a way that damages the existing landscape features or otherwise makes the right-of-way more visible. LRPRA requests that the Commission exercise its authority under § 56-265.2:1 of the Code of Virginia and require Virginia Power to site the pipeline at or near the centerline of the right-of-way, to the extent possible, and to avoid unnecessary interference with the properties and residences that border the right-of-way when siting or constructing the pipeline.

Roanoke Gas Company ("Roanoke Gas") does not oppose Virginia Power's Application. However, Roanoke Gas believes that a precedent could be set in this proceeding that would permit other utilities in Virginia to develop, construct, own, and/or operate gas pipelines in the certificated service areas of other utilities, in effect bypassing the incumbent utility, unless evidence is introduced to show that Virginia Power's Application is significantly unique. Roanoke Gas also recommends that the Commission grant the Application pursuant to § 56-265.2 of the Code of Virginia, not pursuant to the provisions of §§ 56-265.3 (assignment of service territories) or 56-265.4 (certificate to operate in the territory of another certificate holder) of the Code of Virginia.

The Virginia Committee for Fair Utility Rates believes the public convenience and necessity require conditions be imposed on the grant of a certificate of public convenience and necessity to encourage competition among electric suppliers. These conditions would include granting similar access to other suppliers, including access to its electric transmission rights-of-way and the pipeline that is the subject of this case.

Washington Gas Light Company ("WGL") holds the certificate of public convenience and necessity to provide natural gas service within the geographic area of the proposed pipeline. WGL recommends that any certificate issued by the Commission be made subject to two conditions. First, Virginia Power, or any subsequent owner of the pipeline, should be prohibited from using the pipeline to provide public utility natural gas service to any customer located within WGL's certificated service territory. Second, WGL should have a right of first refusal to acquire, for use in providing natural gas service to the public, any excess capacity in the pipeline other than for delivery of natural gas to the Station.

### Written Comments.

A number of interested parties filed written comments.

The Virginia Department of Environmental Quality (“DEQ”) filed a report of its coordinated environmental review.<sup>1</sup> In its report, DEQ identified a number of issues Virginia Power needed to resolve prior to the start of construction:

- (1) A delineation of waters of the United States (including wetlands) must be conducted and a Joint Permit Application for potential water quality impacts be submitted and approved. DEQ recommended that, in addition to the Quantico River, Neabsco Creek and Powell Creek be crossed by directional drill method.
- (2) A determination of potential impacts to the bald eagle and small whorled pogonia must be coordinated with the appropriate regulatory agencies including all necessary surveys and mitigation, if necessary.
- (3) Completion of a search of the Department of Historic Resources files regarding historical and archeological resources. In addition to the new right-of-way area, the cleared easement has the potential to contain archeological resources.
- (4) Compliance with the Department of Conservation and Recreation’s Erosion and Sediment Control (“ESC”) law that requires utility companies to submit, for review and approval, an ESC plan prior to the start of construction.
- (5) Compliance with the Fairfax County Water Authority and the Northern Virginia Regional Commission requests regarding assurances about the use of the pipeline and assessment information relating to the travel distance of an explosion impact as well as any water quality impacts.

Ruth T. Griggs, Occoquan District Supervisor, Prince William Board of County Supervisors stated in her comments that citizens along the proposed pipeline route are concerned about safety and the effect of the line on their individual properties. The citizens would prefer that, to the maximum extent possible, the pipeline and its associated easement be located within the existing 300-foot wide electric power line easement, and that all construction and service equipment access the pipeline through the easement, rather than through private properties. She also stated that an effort should be made to preserve the existing tree buffer that screens the power line easement.

---

<sup>1</sup>The following agencies and regional authorities joined in the review: Department of Environmental Quality; Department of Conservation and Recreation; Department of Mines, Minerals and Energy; Department of Agriculture and Consumer Services; Department of Historic Resources; Chesapeake Bay Local Assistance Department; Virginia Marine Resources Commission; Virginia Institute of Marine Science; Northern Virginia Regional Commission; Fairfax County Water Authority; and Northern Virginia Regional Park Authority.

The citizens along the route consider the tree buffer highly desirable and its loss might affect the property values of the homes adjacent to the pipeline. The citizens would also like reasonable assurances that any property disturbed by the construction of the pipeline would be restored to its prior condition, and that any recreational facilities in the easement will be preserved or replaced. Ms. Griggs also expressed her concern about the impact of the pipeline on insurance policies carried by citizens, homeowners associations, and the Lake Ridge Parks and Recreation Association for their homes or common areas. Ms. Griggs recommended that Virginia Power coordinate any construction work on the pipeline with the Virginia Department of Transportation to minimize disruption and inconvenience to the public, especially along Minnieville Road and in the Twin Oaks subdivision. Finally, Ms. Griggs recommended that Virginia Power advise the citizens along the pipeline route of its emergency management plan, and that Virginia Power work with the Prince William County emergency management team in the development of that plan.

The Fairfax County Water Authority (the “Water Authority”) expressed its concern with possible future uses of the pipeline that could affect the area’s water supply. The Water Authority is also concerned with the potential impact of an explosion on the structural integrity of the Occoquan Dam and the dam’s water intakes. The Water Authority stated it could not support the construction of the pipeline one mile upstream from the Occoquan Dam until these issues were investigated and resolved.

Mr. and Mrs. Stogner, Lake Ridge residents, questioned the potential impact of the pipeline on property values. The Stogners believe they are already impacted by the electromagnetic field associated with the power lines in the easement and they are wondering what further impact the pipeline will have on their property value. The Stogners are also concerned with the possibility of an explosion and the resulting fire on the tree buffer and the homes in the area.

Mr. and Mrs. Thompson, Orange Court residents, filed two sets of written comments and testified at the public hearing. In their first written comments, they recommend that the pipeline be placed on the east side of the easement along Virginia Power’s ingress easement. The Thompsons believe that the proposed location of the pipeline would sever each lot and severely hamper any constructive benefit of the owners in the land. The pipeline construction would require the removal of all existing trees in the right-of-way. Currently, the trees act as a buffer and a habitat for wildlife. The construction would also impinge on the homeowners’ gardens and orchards. The Thompsons raised several questions: (1) if the additional 25-foot easement for the pipeline further restricts their property use, how will they be compensated for that loss of use; (2) will the pipeline construction return the ground to its original grade and rebuild fencing and similar property; (3) will the homeowners be subject to higher insurance costs and if so, who will pay those costs; (4) where will the shut off valves, control valves, and over pressure devices be located; and (5) what is the evacuation plan in case of a leak or other catastrophe.

In their second set of comments, the Thompsons expressed their disbelief that Virginia Power could cut down all the trees in the right-of-way when they do not own or pay taxes on the land. The Thompsons researched their chain of title and found that the deed granting the easement limits Virginia Power’s rights to constructing, operating and maintaining facilities for transmitting or distributing electric power and for communication purposes over, under and upon and across the easement. The Thompsons believe the language of the deed permits gardens, orchards, and any

other type of use, provided Virginia Power is not denied access to the right-of-way. The Thompsons further believe the language of the deed requires Virginia Power to pay the homeowners for any damage to their property caused by Virginia Power. The Thompsons believe the use and enjoyment of their property should not be further diminished.

Public Witnesses.

At the 2:00 p.m. April 9, 2001, public hearing, 12 public witnesses appeared and testified. Delegate Michele McQuigg appeared and publicly thanked the Commission for scheduling a local hearing in Prince William County to hear the citizens' concerns over Virginia Power's proposed pipeline. (Tr. at 15-16).

Ms. Joyce Thompson, an Orange Court resident, appeared and sponsored her and her husband's written comments into the record. (Tr. at 17-23).

Mr. Mark Conner, a Lake Ridge resident, provided recent examples of pipeline explosions and the loss of life and property damage that resulted from these explosions. Mr. Conner believes the Commission must do all it can do to prevent a similar occurrence in the Lake Ridge community. Mr. Conner further believes it is the responsibility of the Commission to weigh the economic, environmental and public safety issues related to Virginia Power's Application. Mr. Conner would like the Commission to take a hard look at whether the gas line is needed and the environmental and safety impact of the line. (Tr. at 24-26).

Ms. June Najjum, a resident of Lake Ridge, is opposed to shifting the route of the pipeline from the eastern side to the western side of the easement through Lake Ridge. She does not believe Virginia Power's rationale that there are fewer trees along the western side of the easement. She believes the pipeline should go down the center of the easement so that it is as far away from people and property as possible. (Tr. at 27-28).

Mr. Franklin Gingrich appeared on behalf of the Twin Oaks Farm Homeowners Association. He also prefers that the pipeline be located down the center of Virginia Power's easement; however, for his neighborhood, the western side easement is preferable to the eastern side. Mr. Gingrich would like a procedure put into effect where the homeowners could gain access to information concerning the operation, maintenance and safety issues involving the pipeline and how they were resolved. Mr. Gingrich intends to ask Virginia Power to bury the pipeline five feet underground rather than the normal three feet. (Tr. at 29-32).

Mr. Ken Weir, a Lake Ridge resident, has some of the same concerns as his neighbors. He wanted to provide the Commission with an appreciation of how close the pipeline is to his house. He stated the pipeline would be approximately 12 feet from his fence and his backyard. He would like to see the pipeline moved to the center of the easement, or at least farther away from his property line. (Tr. at 33).

Mr. Charlie Fields, an Orange Court resident, agreed with Ms. Thompson's comments that the pipeline should be placed along the east side of the easement. If the pipeline must go down the

center of the easement, he believes there is sufficient room to offset the pipeline from the center slightly to the east. Mr. Fields would like to know whether Virginia Power will replace the trees that are cut down during pipeline construction. Mr. Fields believes it would be a good idea for Virginia Power to odorize the gas because the pipeline route takes it through residential areas. He believes this would add a degree of safety. (Tr. at 34-40; 62-63).

Ms. Lynn Asmuth, a Lake Ridge resident, wants the natural buffer between her backyard and the easement retained to greatest extent possible. She believes there is sufficient room in the middle of the easement to place the pipeline. She suggested to Virginia Power that the pipeline should run down the Occoquan River to the Potomac River and then directly to the Station, thereby impacting no one's backyard. Virginia Power told her that route would be cost prohibitive. (Tr. at 41-42).

Mr. Joseph Pevarnik, a Lake Ridge resident, lives along the eastern side of the Virginia Power easement. He also supports the placement of the pipeline in the center of the easement. He was concerned with the depth of the pipeline and was told the minimum depth would be three feet and the pipeline would be marked with warning signs at road crossings, river crossings, and anywhere else there may be public access. Mr. Pevarnik asked whether the gas in the line would be scented and was told that it depended on Department of Transportation class locations. (Tr. at 43-47).

Hilda Barg, Woodbridge District Supervisor, Prince William Board of County Supervisors, stated that she received only three telephone calls concerning the pipeline route. One of her constituents was concerned about the possibility of construction equipment damaging his septic drain field. Ms. Barg expressed her own concern about the number of trees that will be taken down and whether Virginia Power will replace them. She hopes that Virginia Power will work with the residents of Orange Court on the tree buffer issue. She expects the conversion of the Station from coal to natural gas to improve the air quality in the area. Finally, she requested that before construction starts, Virginia Power send the homeowners a letter outlining the construction schedule, especially when construction is to begin in each neighborhood. (Tr. at 48-52).

Kathy Anderson, a Lake Ridge resident, testified regarding the notice she received that Virginia Power needed access to her property to survey the pipeline route. In addition, Ms. Anderson voiced her concern with the amount of land that must be cleared to construct the pipeline. She believes the construction easement and the final easement will remove too much natural vegetation. (Tr. at 52-58).

Carl Ackerman appeared on behalf of Potomac Hospital. The hospital supports the relocation of the pipeline from the west side of the hospital to the east side of the hospital, along the existing Virginia Power right-of-way. There is a parking lot on the east side of the hospital and the hospital has no plans to expand its facilities in this area. (Tr. at 58-61).

At the 7:00 p.m. April 9, 2001, public hearing, 14 public witnesses appeared and testified. Mr. Randy McHugh, a Lake Ridge resident, testified the property values and quality of life of Lake Ridge residents are already affected by the presence of the power lines running behind their homes. He is concerned the existing buffer of trees that presently camouflage the power lines will not be



permitted to grow after the gas line is installed. He is also concerned that the destruction of the tree buffer will result in a permanent loss in wildlife habitat. He believes Virginia Power should be required to place the pipeline in the center of its easement through Lake Ridge. (Tr. at 77-81).

Rose Muza, an Orange Court resident, testified she has the same concerns as her neighbors. She wondered whether Virginia Power would consider moving its distribution line behind Orange Court so that the pipeline could be placed along the east side of its right-of-way. (Tr. at 82-85).

Richard Fox, a Lake Ridge resident, is concerned about the removal of the tree buffer and would prefer that the pipeline be placed in the center of the easement. (Tr. at 85-86).

Connie Mitchell, a Lake Ridge resident, does not believe enough thought went into the decision to move the pipeline from the east side to the west side of the easement. She too is concerned with the 75-foot construction easement and whether construction equipment will be coming on her property. Ms. Mitchell is also concerned with the proximity of the pipeline to several schools in the area. She believes Virginia Power should have chosen a less populated route. (Tr. at 87-90).

Frank Hisson, a Lake Ridge resident, testified that the relocation of the pipeline to the west side of the easement placed it 200 feet closer to 400 or 500 children at Antietam Elementary School. He also is frustrated with the lack of advance notice of tree clearing for the pipeline survey, and he hopes Virginia Power will do a better job in making information available on its website for the citizens affected by the pipeline. Mr. Hisson also testified at the April 26, 2001, hearing. At this hearing, he stated that he and his neighbors are most concerned about the proximity of the pipeline to Antietam Elementary School. The pipeline is approximately 200 feet from the school; however, there are several homes, streets and tree buffers between the pipeline and the school. (Tr. at 91-98; 139-143).

Beverly Phillips, a Lake Ridge resident, is concerned with the location of the pipeline to a sewer line that is eight feet behind her property line. Virginia Power assured her that they would be hand digging in that area. She is also concerned with the size of the construction easement and the final pipeline easement. She has a large oak tree in her yard and she is wondering what impact the construction will have on its root system. She is afraid that if the roots are damaged the tree might fall on her house. She stated the pipeline would be approximately 45 feet from the back of her house. (Tr. at 99-102).

David Swavely, a Lake Ridge resident, would prefer that the pipeline be placed in the center of the easement. Mr. Swavely paced off the distances between the towers and the wooden structure in the center of the easement and he believes there is sufficient room to run the pipeline between the wooden structure and the westernmost electric transmission towers. Mr. Swavely stated that blasting occurs at the Vulcan Stone quarry, located across the Occoquan Reservoir in Fairfax County, and questioned its impact on the pipeline. (Tr. at 103-06).

George Krenik, a Lake Ridge resident, addressed two issues in his comments. First, he would like to know what effect the switch to natural gas as a fuel at the Station will have on electric

rates in Prince William County. Second, considering the 1250 psig operating pressure of the pipeline, Mr. Krenik questions what would happen if the pipeline ruptured. (Tr. at 107-09).

Wade Najjum, a Lake Ridge resident, opposes running the pipeline through a heavily populated area like Lake Ridge. However, if the Commission approves the pipeline, it should require Virginia Power to locate the pipeline in the center of the easement or if that is not possible down the widest side of the easement. (Tr. at 110-14).

Ken Freshwater, a Twin Oaks resident, is concerned with the proximity of the pipeline to the back of his house. He was not aware of the shift in the location of the pipeline from the east side to the west side of the easement until the surveying team was marking the line. Mr. Freshwater is dismayed that no one from Virginia Power contacted him. The survey for the pipeline has a portion of the line traveling through part of Mr. Freshwater's yard. Mr. Freshwater estimated the distance from the center of his house to the pipeline was approximately 35 feet. (Tr. at 114-20).

In addition to her filed written comments, Ruth Griggs, Occoquan District Supervisor, Prince William Board of County Supervisors, expressed her concern with the Vulcan Stone quarry blasting and the impact that blasting would have on the pipeline. Within the past couple of months, Vulcan Stone had sent a request to the Prince William Board to increase the magnitude of the blasting at its quarry. Ms. Griggs stated the blasting has had an effect on several residences within the Lake Ridge subdivision. She believes this issue needs to be resolved before the pipeline could be built. Ms. Griggs stated this case comes down to a matter of a few feet. If Virginia Power could either bury the pipeline deeper or save a few feet of the tree buffer this would have a tremendous impact on the lives of the people who live along the easement. (Tr. at 121-26).

Billy Isabell, a Lake Ridge resident, supports moving the pipeline from the east side to the west side of the easement because it impacts fewer houses. He still believes, however, that locating the pipeline in the center of the easement would be the most prudent course of action. This would reduce the chance of any damage to adjoining houses if there were a pipeline rupture. (Tr. at 126-29).

John Turnquist, a Lake Ridge resident, believes it is the duty of government to balance the interests of Virginia Power and the citizens in the Lake Ridge community. Mr. Turnquist considers the Virginia Power right-of-way an ecological delight. He believes the quality of life in the community should be protected. (Tr. at 130-31).

Dr. N. Jack Kooyoomyan, a Lake Ridge resident, questioned the safety of the pipeline. He is aware that the pipeline will be constructed to ASTM standards; however, he thinks Virginia Power should consider burying the pipeline deeper in heavily populated areas like Lake Ridge. He is also concerned with the quality of life in the Lake Ridge community and the impact the pipeline would have on that quality of life. (Tr. at 132-35).

The parties stipulated the following testimony and exhibits into the record: (1) Virginia Power's Application; (2) Corrected Testimony of E. Paul Hilton on behalf of Virginia Power; (3) Testimony of Alan R. Thorn on behalf of Virginia Power; (4) Testimony of Donald W. Baumann on behalf of Virginia Power; (5) Testimony of Steven L. Burkett on behalf of Virginia

Power; (6) Testimony of Paul E. Ruppert on behalf of Virginia Power; (7) Testimony of John A. Stevens on behalf of the Staff; (8) Testimony of James H. Hotinger on behalf of the Staff; (9) Testimony of Lawrence W. Oliver on behalf of the Staff; (10) Testimony of Jarilaos Stavrou on behalf of the Staff; (11) Testimony of Katherine Judy on behalf of LRPRA; (12) Testimony of George E. Chastka on behalf of WGL; (13) Testimony of Victor Michael Gaglio on behalf of TCO; (14) Supplemental Testimony of James H. Hotinger on behalf of the Staff; (15) Supplemental Testimony of Lawrence T. Oliver on behalf of the Staff; (16) Rebuttal Testimony of W. Bruce Aitkenhead on behalf of Virginia Power; (17) Rebuttal Testimony of Thorald A. Evans on behalf of Virginia Power; (18) Rebuttal Testimony of Donald W. Baumann on behalf of Virginia Power; (19) Rebuttal Testimony of Louis R. Oberski on behalf of Virginia Power; (20) Supplemental Rebuttal Testimony of Thorald A. Evans on behalf of Virginia Power; (21) Supplemental Rebuttal Testimony of Donald W. Baumann on behalf of Virginia Power; (22) Supplemental Rebuttal Testimony of Louis R. Oberski on behalf of Virginia Power; (23) Supplemental Rebuttal Testimony of W. Bruce Aitkenhead on behalf of Virginia Power; (24) Supplemental Rebuttal Testimony of Alan R. Thorn on behalf of Virginia Power; (25) Kiefner & Associates, Inc. Final Report; and (26) Proof of Notice.

## **DISCUSSION**

The statutory standard for Commission review of Virginia Power's Application is set forth in § 56-265.2:1 of the Code of Virginia. This statute provides:

A. Whenever a certificate is required pursuant to § 56-265.2 for the construction of a pipeline for the transmission or distribution of manufactured or natural gas, the Commission shall consider the effect of the pipeline on the environment, public safety, and economic development in the Commonwealth, and may establish such reasonably practical conditions as may be necessary to minimize any adverse environmental or public safety impact. In such proceedings, the Commission shall receive and consider all reports by state agencies concerned with environmental protection; and, if requested by any county or municipality in which the pipeline is proposed to be constructed, local comprehensive plans that have been adopted pursuant to Article 4 (§ 15.1-446.1 *et seq.*) of Chapter 11 of Title 15.1.

The parties have filed a Stipulation for Commission consideration.<sup>2</sup> The parties represent the Stipulation is a proposed resolution to the issues raised by the Protestants and the public witnesses concerning the safety, environmental, and economic impact of the proposed pipeline. The Parties further represent the Stipulation assures that the statutory standards set forth above are met and the public interest is otherwise protected.

The Stipulation provides that the lateral gas pipeline will be located along the route described on pages 1-4 of the prefiled rebuttal testimony of Donald W. Baumann and shown on pages 1, 2 and 3 of his Exhibit DWB-1A, except that the lateral pipeline shall be located no less than 20 feet from the outer edge of Virginia Power's existing electric transmission right-of-way.

---

<sup>2</sup> See, Attachment A appended to this Report.

Virginia Power has agreed to locate the pipeline five feet farther into the easement from its original proposal. The pipeline will be located within a 75-foot temporary cleared construction easement and 50-foot permanent cleared easement, both extending inward from the outside edge of Virginia Power's existing electric transmission right-of-way.

Once the construction of the pipeline has been completed, Virginia Power will allow, in the areas of Lake Ridge on the western edge of Virginia Power's existing electric transmission right-of-way from Old Bridge Road (Route 641) to Woodfern Court and from Deepford Drive to and including the first house south of the Occoquan Reservoir: (a) a five-foot wide strip extending inward from the western outer edge of the electric transmission right-of-way to be replanted with vegetation in order to provide a visual buffer for adjoining landowners in those areas; and (b) upon completion of the final alternating current mitigation ("ACM") and cathodic protection studies for the pipeline but in any event no later than 18 months after construction of the pipeline is completed, an additional five-foot strip extending inward from the inner edge of the five-foot strip described in (a) above to be replanted for the same purpose as described in (a) above, contingent upon the allowance of such revegetation in the additional five-foot strip being consistent with the results of such studies. In preparing its final pipeline integrity design, Virginia Power and DTI agree to make a good faith effort to accommodate such revegetation in the additional five-foot strip described in (b) above. Any revegetation allowed in either or both of such five-foot strips must be of a species consistent with the pipeline integrity design, be approved by Virginia Power's in-house forester, who will work with LRPRA to develop a plan for such revegetation, and not be allowed to exceed 15 feet in height at any time. Once either or both of these five-foot strip portions of the permanent pipeline easement are revegetated, the vegetation will be allowed to remain on the same basis, and subject to the same rights with respect to being cleared if necessary for the operation and maintenance of the pipeline that Virginia Power has with respect to clearing existing vegetation if necessary for the operation and maintenance of its electric transmission facilities. Virginia Power has agreed to contribute \$30,000.00 to LRPRA to be used to defray the costs of such revegetation in such five-foot strip or on adjoining property outside the right-of-way. Virginia Power has agreed to contribute a total of \$5,000.00 for the purchase of trees and other vegetation for planting outside the electric right-of-way in the Orange Court area and will work closely with the appropriate homeowners' association(s) there to establish a plan (including the assistance of Virginia Power's in-house forester) for donating trees and vegetation to be planted on adjacent property.

The new gas facilities will be constructed and operated in accordance with the requirements of Title 49 C.F.R Parts 191, 192 and 199 (the "Pipeline Safety Regulations"), except that, in order to address safety issues raised in this case, Virginia Power will take the following additional actions, which exceed the requirements of the Pipeline Safety Regulations:

- A. Except as provided in B below, the entire pipeline, including areas that are designated as Class 1 or Class 2 under the Pipeline Safety Regulations, will be designed to meet at least the pipe design requirements (including increased pipe wall thickness) for a Class 3 location under the Pipeline Safety Regulations.
- B. The pipeline in the Lake Ridge and Twin Oaks subdivision areas (from the Occoquan Reservoir south to Minnieville Road), in the Orange Court area

and in the vicinity of the Antietam Elementary School, Woodbridge Middle School, Marumsco Hills Elementary School, and Leesylvania Elementary School, all of which are Class 3 locations under the Pipeline Safety Regulations, will be designed to meet the pipe design requirements (including increased wall thickness) of the Pipeline Safety Regulations for a Class 4 location. The Class 3 locations that will be upgraded to a Class 4 location pipe design are: northern shore of Occoquan Reservoir to the south of Minnieville Road; west side of I-95 to the south side of Opitz Boulevard; and north side of Neabsco Road to 1,000 feet south of Jennings Road.

- C. Virginia Power will cause the interior of the pipeline sections to be coated to provide protection against corrosion in addition to the protection provided by the external coating and cathodic protection required by the Pipeline Safety Regulations.
- D. In areas of directional drilling, an abrasive resistant extra coating will be added on top of the normal external epoxy coating applied to the pipeline.
- E. All pipeline welds will be subjected to 100% radiographic examination, including in areas designated as Class 1 and 2 locations for which the Pipeline Safety Regulations require such testing for only 10% and 15%, respectively, of all welds.
- F. The entire pipeline will be non-destructively strength-tested to a minimum of 90% of the specified minimum yield strength (“SMYS”) (compared to the 71% and 58% of SMYS required for Class 3 and 4 locations, respectively, by the Pipeline Safety Regulations), meaning that the entire pipeline will be tested to 2375 psig for the Class 3 pipe design locations and 2925 psig for the Class 4 pipe design locations, respectively (compared to the 1875 psig required by the Pipeline Safety Regulations for both Class 3 and Class 4).
- G. Internal inspections of the pipeline will be conducted approximately every seven years utilizing “smart” pig technology.
- H. Although the Pipeline Safety Regulations authorize the pipeline to be operated at a Maximum Allowable Operating Pressure (“MAOP”) of 1250 psig, Virginia Power and DTI agree to observe a maximum operating pressure (“MOP”) of 1055 psig, subject to obtaining any necessary governmental approvals and permits required for the installation and operation of pressure regulation facilities (which Virginia Power and DTI will make a good faith effort to obtain).

Virginia Power has agreed to submit to the Division of Energy Regulation: (a) prior to construction, the comprehensive written specifications for all portions of the new gas facilities (including the portion of the metering and regulating station owned by Virginia Power at the interconnect with the Cove Point LNG pipeline and provisions for the cathodic protection system,

interference current mitigation and electric isolation) that are required by the Pipeline Safety Regulations; and (b) at least 60 days prior to the operation of the pipeline, the operating and maintenance manual and the operator qualification and anti-drug and alcohol misuse plans that are required by the Pipeline Safety Regulations.

To the extent it has not already done so, Virginia Power will comply with: (a) all permitting requirements, take all mitigation measures necessary, and submit all plans, specifications or reports recommended by the Department of Environmental Quality in Mr. Stevens' Exhibit JAS-3; and (b) the requests made by Ms. Ruth Griggs of the Prince William Board of County Supervisors in her February 7, 2001, letter to the Commission. (Ex. JS-7; D.C.C. No. 010320063).

To the extent it has not already done so, Virginia Power will obtain the permits and approvals set forth on Mr. Aitkenhead's Exhibit WAB-1. (Ex. WA-23).

Virginia Power agreed that its Application in this proceeding was not intended to seek, and the authorization in the Commission's final order in this proceeding should not include, an assignment of service territory under 56-265.3 of the Code of Virginia, or a certificate under § 56-265.4 of the Code of Virginia to operate in the service territory of another certificate holder.

Virginia Power acknowledged that its Application was limited to authorization to construct, own and operate the new gas facilities to facilitate natural gas service to the Station and agreed that Commission approval would be required before the new gas facilities might be used to provide natural gas service to end-users other than the Station.

Virginia Power stipulated that: (a) the documents attached as Exhibit A to the Stipulation (the Pipeline Construction Contract between Virginia Power and DTI), Exhibit B (the Pipeline Operation and Maintenance Agreement between Virginia Power and DTI), and Exhibit C (Virginia Power's Transmission Line Right-of-Way Non-Transmission Use Policy applicable to the use of its electric transmission rights-of-way for purposes other than Virginia Power electric transmission); (b) 49 C.F.R. Part 192 (including, among other things, requirements for welding, storage and handling, trenching, installation and backfilling procedures) are the only documents or materials that provide a description of the technical, engineering, construction and safety requirements required by Virginia Power for the construction, and operation and maintenance, of the new gas facilities by DTI; and (c) to the extent the documents identified as Exhibits A and B are not yet finalized and/or executed by Virginia Power and DTI, Virginia Power will provide copies of these documents to the Staff and TCO within five business days of final execution of each document, along with any amendment or addendum thereto. TCO may, in discussions with Virginia Power regarding locating gas pipeline facilities within Virginia Power's electric transmission rights-of-way, make references to and otherwise utilize the documents and materials attached as Exhibits A, B and C and 49 C.F.R. Part 192.

Virginia Power will not discriminate against TCO or other non-affiliated natural gas pipeline or other companies, or in favor of itself or its affiliates, with regard to technical, engineering, construction and safety requirements, or with regard to policies, standards or conditions for the construction and operation and maintenance of gas pipeline facilities within its electric transmission right-of-way.

Virginia Power will file with the Commission a true copy of the final versions of the Pipeline Construction Contract and Pipeline Operation and Maintenance Agreement and, subject to the provisions of the March 12, 2001, Protective Order issued in this proceeding, interconnection agreement between Virginia Power and Cove Point LNG, LLP, gas supply agreement between Virginia Power and El Paso Merchant Energy and the Easement Support Agreement, once they are executed .

Virginia Power agreed that, as owner of the new gas facilities (including the portion of the metering and regulating station owned by Virginia Power at the interconnect with the Cove Point LNG pipeline) it is ultimately responsible for their construction and operation in accordance with the provisions of the Stipulation.

The Commission's authorization in the final order in this proceeding should be conditioned on Commission approval of the Pipeline Construction Contract and Pipeline Operation and Maintenance Agreement under Chapter 4 of Title 56 of the Code of Virginia in Case No. PUA010025.

Virginia Power agreed to take all actions necessary to obtain and assure control of the new gas facilities and that the Commission's authorization in the final order issued in this proceeding should provide that, if Virginia Power does not maintain control of the new gas facilities, except as may be provided by the Commission in Virginia Power's functional separation plan in Case No. PUE000584, such authorization should sunset and further authority regarding the disposition of the new gas facilities must be requested from the Commission.

Virginia Power addressed the issue raised by the Fairfax County Water Authority concerning the possible impact on the Occoquan dam of a pipeline rupture beneath the reservoir. The Kiefner & Associates, Inc. Final Report (the "Kiefner Report") states that a pipeline rupture beneath the reservoir would essentially be a "benign event." In the event the pipeline ruptures under the reservoir, the pressure wave produced by pressurization of the borehole would be of sufficiently low magnitude that it would not cause any damage to the dam or its foundation and the resulting vibration would not be humanly felt. If a pressure wave having the same magnitude were developed in the water, the effect on the dam would be dynamically equivalent of raising the water level in the reservoir approximately 0.04 feet. Moreover, the resulting pressure wave developed in the water by transmission and refraction of the in-rock pressure wave at the rock-water interface would be perhaps as little as 10 to 20 percent of the pressure wave felt at the dam. (Ex. VP-25, at 2).

Virginia Power addressed the issue raise by Ruth Griggs, Occoquan District Supervisor, and the public witnesses concerning blasting at the Vulcan Stone quarry in Fairfax County and its impact on the pipeline. The Kiefner Report states this would also be a "benign event" on the pipeline. The Kiefner Report estimated an increase in transient pipe stress on the pipeline, as a result of the blasting, in the order of 110 psi. For comparison purposes, this would be the equivalent to a 150-lb. person standing over the backfilled pipeline. (Ex. VP-25, at 2).

Virginia Power agreed to comply with the other requests made by Ms. Griggs. In response to her inquiry regarding homeowner's insurance, the Staff requested that the Commission's Bureau of Insurance survey the top five writers of homeowner's insurance in Virginia to determine what effect the pipeline would have on the policy's premium. The survey indicated that the proximity of the pipeline would have no impact on the premiums paid for a homeowner's insurance policy.

Virginia Power agreed to comply with all the recommendations contained in the DEQ's coordinated environmental review. There are no endangered plant species located along the proposed pipeline route. There are two bald eagle nests located along the route and Virginia Power has agreed not to engaged in any construction near the nests during the eagles' nesting season. (Exs. WA-16 and WA-23).

Virginia Power's reasons for not relocating the pipeline to the center of its electric transmission line easement through Lake Ridge are reasonable. Virginia Power stated that it requires other utilities to locate their facilities on the outer edge of its easements so that they do not interfere with Virginia Power's maintenance of its electric transmission lines. In this particular instance, locating the pipeline in the center of the easement would have required the relocation of the grounding wires for its transmission towers and would prohibit the future use of the center of the easement for upgrades to its electric transmission grid. (Exs. LO-19 and LO-22).

Virginia Power's reasons for not locating the pipeline on the eastern edge of its right-of-way through Orange Court are reasonable. Placing the pipeline along the eastern edge would have required the relocation of an existing electric distribution line.

To address citizen concerns with the safety of the pipeline, given its close proximity to homes, schools, and a hospital, Virginia Power agreed to move the pipeline five feet farther into its easement in the Lake Ridge subdivision. It also agreed to over-design, over-build, over-inspect, and over-test the entire pipeline to increase its relative safety and decrease the probability that a rupture would result in catastrophic event. As part of this effort, Virginia Power agreed to operate the pipeline at a reduced operating pressure. With these significant safety improvements in the pipeline, I see no need to further require Virginia Power to increase the average bury depth of the pipeline. I find Virginia Power's response to the citizens' safety concerns to be reasonable. I further find Virginia Power's response meets the statutory standard of minimizing the safety concerns of the citizens adjoining the pipeline route.

To address citizen concerns regarding the natural tree buffers in Lake Ridge and Orange Court, Virginia Power agreed to contribute \$30,000.00 and \$5,000.00, respectively, to the homeowners associations for purchase of trees and other vegetation to replant the buffer after pipeline construction is completed. In Lake Ridge, Virginia Power has agreed to allow the homeowners adjoining its easement to plant the buffer on their own land and at least five feet into its easement, with the possibility if its cathodic test results permit, allowing the homeowners an additional five feet into its easement. Virginia Power also offered the services of its in-house forester to identify the species of trees and other natural vegetation that may be planted, and to develop a plan for donating the trees and vegetation to be replanted. I find Virginia Power's response to the citizens' concerns regarding the environmental impact the pipeline's installation will



have on their natural tree buffers is reasonable. Virginia Power has sought to minimize the pipeline's impact on the environment.

Finally, of the various routes considered by Virginia Power, the route chosen by Virginia Power is the least disruptive to the citizens of Fairfax and Prince William Counties. The pipeline route is 94.5% on existing Virginia Power electric transmission line right-of-way. The remainder of the route travels over wooded land or old farm fields. The other routes would have required the possible taking of land by eminent domain.

## **FINDINGS AND RECOMMENDATIONS**

Considering the foregoing, I find that the parties' Stipulation reasonably addresses all of the safety, environmental and economic issues raised by the Protestants and the public witnesses in this case. Accordingly, ***I RECOMMEND*** that the Commission enter an order that:

- (1) ***ADOPTS*** the findings contained in this Report;
- (2) ***ACCEPTS*** the parties' Stipulation;
- (3) ***GRANTS*** Virginia Power a certificate of public convenience and necessity to develop, construct, own and operate an intrastate natural gas pipeline in accordance with the parties' Stipulation; and
- (4) ***DISMISSES*** this case from the Commission's docket of active cases.

## **COMMENTS**

At the June 6, 2001, evidentiary hearing, the parties waived their right to file comments to this Report. Their waiver was conditioned upon the Hearing Examiner recommending to the Commission that the Commission accept the parties' Stipulation. The Hearing Examiner has made such a recommendation. Consequently, this matter is ripe for Commission decision.

Respectfully submitted,

---

Michael D. Thomas  
Hearing Examiner